

IN THE CIRCUIT UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

KEVIN OMAR MATÍAS-ROSELLÓ,	*	CIVIL NO. 3:19-CV-01307 (ADC)
INDIVIDUALLY AND ON BEHALF	*	
OF ALL OTHERS SIMILARLY	*	FAIR LABOR STANDARDS ACT
SITUATED	*	
	*	JURY TRIAL DEMANDED
Plaintiffs,	*	
	*	
vs.	*	
	*	
EPOCH LLC; FOT INVESTMENTS	*	
LLC D/B/A DOMINO'S PIZZA;	*	
CLUTCH CONSULTING, LLC	*	
	*	
Defendants	*	
	*	

DEPOSITION OF MR. KEVIN OMAR MATÍAS ROSELLÓ

DATE : March 17, 2021

TIME : 2:00 P.M.

CLIENT : VICENTE & CUEBAS

ADDRESS : Capital Center Building I
Penthouse I, Suite 1201
San Juan, Puerto Rico

HELD AT : Remote Service

APPEARANCES

FOR PLAINTIFFS:

Francisco Colón Ramírez, Esq.

FOR DEFENDANTS:

Harold D. Vicente Colón, Esq.

1 NOTARY PUBLIC:

2 Reynaldo Quintana Latorre, Esq.

3 DEPONENT:

4 Mr. Kevin Omar Matías Roselló

5 INTERPRETER:

6 Mrs. Raquel Holcman

7 COURT REPORTER:

8 Mr. Jorge E. Cuadrado López

9 * * *

10 PROCEEDINGS

11 * * *

12 (2:00 p.m.)

13 MR. VICENTE:

14 This case Civil Number 19-1307, caption Kevin Omar
15 Matías Roselló, et al versus Epoch, LLC, et al. We are
16 here for the taking of the deposition of the plaintiff
17 Kevin Matías.

18 We have, off the record, given Kevin some
19 instructions since we are using a translator to assist us
20 in the taking of this deposition.

21 One of the, my co-counsels will act as a notary for
22 the taking of the oaths of the court reporter, the
23 translator, and the deponent, Mr. Reynaldo Quintana.

24 MR. QUINTANA:

25 Do you want me to go over there?

1 MR. VICENTE:

2 'Sí, sí, sí'. And with that said, Rey will join us
3 here in a minute to have his face in the camera.

4 OATHS

5 MR. QUINTANA:

6 Hi! Let's begin with Mr. Kevin Omar Matías. Right?

7 DEPONENT:

8 Yes.

9 MR. QUINTANA:

10 Yes, please raise your right hand. Do you solemnly
11 swear to answer truthfully all of the questions you're
12 going to be asked in this deposition?

13 DEPONENT:

14 Yes.

15 MR. QUINTANA:

16 Okay. Let's do the... Ah, Raquel. Please state
17 your name for the record. Do you solemnly swear to...
18 Ah, your name for the record.

19 INTERPRETER:

20 Yes, Raquel Holcman.

21 MR. QUINTANA:

22 She's the translator. Right?

23 MR. VICENTE:

24 Yes.

25

1 INTERPRETER:

2 Yes.

3 MR. QUINTANA:

4 Okay. Do you swear to translate truthfully all of
5 the questions and answers that are going to be given in
6 the deposition?

7 MS. HOLCMAN:

8 I swear.

9 MR. QUINTANA:

10 Okay. And the Crespo & Rodríguez. Right? Please
11 state your name for the record.

12 COURT REPORTER:

13 Jorge E. Cuadrado López for Crespo & Rodríguez, Inc.

14 MR. QUINTANA:

15 Do you solemnly swear that the transcription will
16 reflect the answers given today in the deposition?

17 COURT REPORTER:

18 Yes.

19 MR. VICENTE:

20 Alright. Thank you, Rey.

21 Jorge, there seems to be a delay when you start
22 speaking. We don't catch what you say until like a few
23 seconds later. It's very, very weird. When you said your
24 name, we didn't hear Jorge, we heard your last name.

25

1 COURT REPORTER:

2 I think it's the connection. Let me...

3 MR. VICENTE:

4 Okay. Now it's working fine, but it looks like when
5 it switches back and forth from one speaker to another,
6 you have a slight delay. So, we're ready to commence.
7 Jorge, go ahead.

8 COURT REPORTER:

9 And what's the name of attorney...

10 MR. VICENTE:

11 Reynaldo Quintana.

12 MR. QUINTANA:

13 R-E-Y-N-A-L-D-O. I think it's on the record.

14 COURT REPORTER:

15 Thank you.

16 MR. VICENTE:

17 Okay. Jorge, you've been recording the video?

18 COURT REPORTER:

19 Yes, yes.

20 MR. VICENTE:

21 So, it's set up to record, because I don't see it
22 here as recording, at least on my screen it does not
23 appear as if it's recording.

24 COURT REPORTER:

25 It's in the, up left it's recording. Yes.

1 MR. VICENTE:

2 It is?

3 COURT REPORTER:

4 Yes.

5 MR. VICENTE:

6 Okay. And one more question I have for you. If I
7 need to put up any documents up on the screen so that
8 Kevin can see them, you will give me access or
9 authorization to put them up. Correct?

10 COURT REPORTER:

11 Yes.

12 MR. VICENTE:

13 Alright. So, let's get started.

14 Alright, Kevin, if you don't understand anything I
15 say to you, or pose to you in questions, please let me
16 know. It's very important that you understand the
17 questions so that the answers you give us are true and
18 correct, and respond to what I'm asking you. Okay? So,
19 don't be afraid to, you know, wave or say: "Time out. I
20 don't understand that." And I'll try to clarify it, or
21 Raquel will try to translate for you to understand.
22 Alright? And if you need a break, just let us know, and
23 I will take a break, and you can use the bathroom or
24 whatever you need. Okay?

25

1 DEPONENT:

2 Okay.

3 MR. VICENTE:

4 Alright, Kevin, say your full name again for the
5 record, please.

6 DEPONENT:

7 Kevin Omar Matías Roselló.

8 MR. VICENTE:

9 Okay. We will be providing you with a copy, through
10 your attorney with a copy of the transcript, which is
11 going to look like a little pamphlet, it's going to have
12 all of the questions, plus all of your answers, and you
13 will have thirty days to review it, and tell us if you
14 have any corrections to be made to that transcript, if for
15 some reason you understand something that is transcribed
16 is not true and correct to what you stated in the
17 deposition. Alright?

18 DEPONENT:

19 Okay. Nice.

20 MR. VICENTE:

21 Alright.

22 STIPULATIONS

23 MR. VICENTE:

24 And Cisco, I suppose you agree to raise any
25 objections during the hearing and reserve them for that

1 time, we will continue the deposition to try to go as
2 smooth as possible. Right?

3 MR. COLÓN:

4 Yes, so, just to understand. He will have thirty
5 days to notify any corrections as allowed by the Rules.
6 And any objections not made today are not deemed waived.
7 Correct?

8 MR. VICENTE:

9 Correct.

10 MR. COLÓN:

11 Okay. Then we agree.

12 MR. VICENTE:

13 Okay.

14 (Whereupon,

15 KEVIN OMAR MATÍAS ROSELLÓ,

16 was called as a witness, and after having been duly sworn,
17 was examined and testified as follows:)

18 DIRECT EXAMINATION

19 BY MR. VICENTE:

20 Q So, Kevin, do you have any conditions that may
21 impair your recollection?

22 A Conditions? Health conditions?

23 Q Yeah, anything that you believe may impair your
24 recollection of facts, that may hamper your ability to,
25 you know, recollect any facts or situations that we may be

1 discussing from your employment at Domino's which was, you
2 know, as you know it's going to be several months if close
3 to a year ago. Right?

4 A Uh-huh.

5 Q Do you have anything that will impair your
6 recollection?

7 A No, no.

8 Q No. Okay. So, what did you do, if anything, in
9 order to prepare to come here for this deposition and
10 respond to questions that are going to be posed to you, if
11 anything?

12 A Again? I'm sorry?

13 Q Did you not understand my question?

14 A No, I didn't understand.

15 Q I'm going to repeat it, and if you don't
16 understand it, Raquel can translate it.

17 A Okay.

18 Q What, if anything, did you do in order to
19 prepare to come to this deposition and give answers to the
20 questions I am going to pose to you?

21 A Translate, please, I'm sorry. What did I do?
22 Well, I tried to study everything that I spoke with my
23 lawyer about to see if we can get to some sort of an
24 agreement about what we had been discussing. But what
25 exactly did I do?

1 Q Okay, so... Do you need to say anything else?

2 A No.

3 Q No. Okay. So, did you meet with your lawyers?

4 A Yeah.

5 Q Okay. Did you review any documents?

6 A Only the document that I was sent.

7 Q What document is that?

8 A The trial, the Fair Labor Standards Act, no more
9 papers.

10 Q I'm sorry? You said, you said you reviewed the
11 Fair Labor Standards Act?

12 A Yeah.

13 Q Do you have it in front of you?

14 MR. COLÓN:

15 Yeah, hold it up.

16 DEPONENT:

17 Yeah. Uh-huh.

18 MR. VICENTE:

19 Q Okay. So, that's the First Set of
20 Interrogatories and Request for Production of Documents?

21 MR. COLÓN:

22 Those are the answers.

23 DEPONENT:

24 Yeah.

25

1 MR. VICENTE:

2 Q Can you hold it up, again, Kevin?

3 A Okay.

4 Q Okay. So, that's... Hold on a minute, Cisco.
5 That's not the same document you showed before.

6 A I have two documents. Okay. This is the
7 Answers to the Interrogatories.

8 Q Okay. That's the Answers to Interrogatories.

9 A The First Set of Interrogatories Request.

10 Q That's the First Set of Interrogatories and
11 Request for Production of Documents. Okay.

12 A Okay. I only have these two papers.

13 Q Alright.

14 A And my answers are on this paper.

15 Q Okay. Now, I got it. Alright. So, those are
16 the only two documents that you reviewed in preparation
17 for this deposition?

18 A Yeah, because my answers are on the second page,
19 on the second paper. Yeah.

20 Q Okay. Did you review the Complaint?

21 A No. I read it but when I contacted my lawyer,
22 it was like three years ago. It came with Hurricane María
23 and all of that, and I didn't have like transportation to,
24 at the moment, to see him and to have all the sets of
25 questions that I was having. But I really haven't read

1 this recently. I read it a long time ago.

2 Q Okay.

3 A When it first started.

4 Q Alright. But you do recall some time ago having
5 read a document titled "Complaint"?

6 A No, no.

7 Q No? Okay. Did you ever read any document
8 presented to you by your lawyers that would reflect the
9 allegations you're raising in this case?

10 A I can't recall to that. Can you repeat the
11 question?

12 Q Do you recall ever reading a document that would
13 reflect the allegations you have raised in this case?

14 A Yes.

15 Q Yes. Typically, that is called a Complaint.
16 And that was the question, whether you recalled having
17 read the Complaint, which is the original document that is
18 sent to the Court to start this proceeding, this case.

19 A Okay. Yeah, yeah, I read it, but that was a
20 long time ago. But I really don't recall what I read.
21 Yeah.

22 Q Okay. Okay. And do you recall reviewing any
23 other document other than the two documents you have in
24 front of you, and many years ago, or sometime ago, the
25 Complaint?

1 A Yeah.

2 Q Do you recall any other document? That's my
3 question.

4 A No, no.

5 Q No. Alright. Have you ever been accused of
6 perjury, or false statements, or having declared false
7 statements?

8 A No.

9 Q No. Have you ever been accused of any, ¿'cómo
10 se dice delito en inglés'?

11 MR. COLÓN:

12 Felony.

13 INTERPRETER:

14 Crime.

15 MR. VICENTE:

16 Q Have you ever been accused of any felony or
17 crime?

18 A No.

19 Q No. Have you ever been... Other than this
20 case, have you ever been a plaintiff or a claimant in any
21 other type of proceeding, civil proceeding?

22 A No.

23 Q No.

24 A I was once asked for a jury, but I didn't...
25 That was a time I was in Orlando.

1 Q Okay. So, you were called for jury duty. Is
2 that what you're saying?

3 A I think so, yeah. There was some mail with my
4 name on it, and when I was in Orlando, yeah.

5 Q Okay. That was when you were living in Orlando?

6 A Yeah.

7 Q And in what year was that, Kevin?

8 A Two thousand fifteen, fourteen.

9 Q Okay. And did you serve on the jury? Were you
10 selected as a jury member?

11 A I didn't go. I didn't answer the post, because
12 I think it's like wrong mail. I didn't answer.

13 Q You didn't?

14 A I think it was fraud.

15 Q Oh, okay. So, you did not answer the letter
16 requesting to be a juror...

17 A No.

18 Q ...because you believed it was a fraudulent
19 letter?

20 A Yes.

21 Q Okay. Have you ever been a witness in any other
22 proceeding?

23 A No.

24 Q No. Okay. So, let's, let me get a little bit
25 of background from you. What kind of educational

1 background do you have? Do you have a high school diploma
2 or any other formal education?

3 A Yeah, diploma GED, and that's about it.

4 Q So, you have a general education degree.

5 A Yeah.

6 Q Okay. You did not finish high school?

7 A No.

8 Q Okay. And were you living in Puerto Rico when
9 you received your GED?

10 A Yeah, in Mayagüez, Puerto Rico.

11 Q And what year was that?

12 A Two thousand twelve, yeah, I think so, yeah.

13 Q Okay. What is your age?

14 A Twenty-seven.

15 Q You're twenty-seven years old?

16 A Yeah.

17 Q Okay. What was your date of birth?

18 A In 01-28-1994.

19 Q Okay. And were you born in Puerto Rico?

20 A Yeah, Mayagüez, Puerto Rico.

21 Q Other than the GED, do you have any other formal
22 education?

23 A No, no, that's about it.

24 Q No vocational schools or any other?

25 A No, I went to, the last school was a vocational

1 school, but I didn't finish. It was problems of health
2 with my mom and I couldn't finish.

3 Q Okay. And what did you start? What kind of
4 vocational school did you start?

5 A Like... You mean the school?

6 Q Yeah. What were you studying for that you
7 stopped?

8 A Okay. Barber.

9 Q Barber?

10 A Yeah, yeah.

11 Q And where was that?

12 A That was at Dr. Pedro Perea Fajardo, Mayagüez,
13 Puerto Rico.

14 COURT REPORTER:

15 Can you repeat that?

16 DEPONENT:

17 I'm sorry? What?

18 COURT REPORTER:

19 Can you repeat that?

20 DEPONENT:

21 'Repetir' what?

22 COURT REPORTER:

23 The name of the school.

24 DEPONENT:

25 Oh, Dr. Pedro Perea Fajardo.

1 MR. VICENTE:

2 Did you get that, Jorge?

3 COURT REPORTER:

4 Yes.

5 MR. VICENTE:

6 Okay.

7 Q Currently, Kevin, are you employed currently?

8 A No.

9 Q No. You're unemployed?

10 A Yeah.

11 Q And where are you currently living?

12 A In Mayagüez, Puerto Rico.

13 Q Are you living with your family?

14 A No, I live alone. Do you need a physical
15 direction?

16 Q Yes.

17 A Road 351, Kilometer 4.0, 'Camino El Italiano',
18 Mayagüez, Puerto Rico 00681.

19 Q Okay. And...

20 A Can I add up to that, that that address is the
21 address that they asked me when they first sent me this
22 document. I'm currently not living in this one, I'm
23 telling you the direction that says from the time that I
24 was sent the document. But if you want the new one?

25 Q Yes.

1 A Okay. It's Villas Centroamericanas, Intersection
2 64, Apartment 9, Mayagüez 00680.

3 Q And you live there alone?

4 A Yeah, I live there alone.

5 Q Okay. So, what was your... Starting from the
6 latest employment that you had, what was your last one?

7 A My last one? Marco's Pizza in Coto Laurel,
8 Ponce.

9 Q Marco's?

10 A 'Sí'.

11 Q And what were your duties or responsibilities
12 there?

13 A Delivery driver and pizza maker, and make line.
14 That's about it.

15 Q Okay. So, you were delivery driver and what?

16 A Make line, that's a, delivery driver and
17 assistant and make line. I worked on the line, I was an
18 assistant on the line.

19 Q Okay.

20 A It's another position.

21 Q Okay. So, you were delivery driver and as an
22 assistant on the food preparation line?

23 A Yeah.

24 Q Okay. And when did you stop working at Marco's
25 Pizza?

1 A On March 6th.

2 Q March 6th as in ten days ago, eleven days ago?

3 A No, last year, when the COVID started.

4 Q Okay.

5 A Yeah.

6 Q So, March 6, 2020?

7 A Yeah.

8 Q Okay. And when did you begin working there?

9 A On my day, on my birthday, 28th of January,
10 2020.

11 Q Okay. So, you worked there maybe two months,
12 two months and a half? Right? Not even, you worked all
13 of February and six days of March, a month and a half. Is
14 that right?

15 A Uh-huh.

16 Q You have to answer yes or no.

17 A Yes.

18 Q Yes. Okay. And why did you stop working at
19 Marco's Pizza?

20 A They told me that because of the 'pandemia',
21 they didn't have like all the hours that I was able to
22 work, and they had like other employees, older employees,
23 that they had the hours, and they let me off because of
24 the 'pandemia'.

25 Q Okay.

1 A Yeah.

2 Q Hold on a second.

3 A Okay.

4 Q What was your salary at Marco's Pizza?

5 A It was \$7.25.

6 Q Uh-huh. Is that it?

7 A Yeah.

8 Q You had no other type of compensation there?

9 A And the money that we made doing the deliveries,
10 I think is \$1.00.

11 Q One dollar for what?

12 A Per trip, per delivery.

13 Q Okay. Any other compensation that you received?

14 A No.

15 Q No. Prior to starting that work on January 28,
16 2020, where did you work?

17 A At Domino's.

18 Q You worked for Domino's prior to that?

19 A Yeah. You mean "prior" like 'antes'?

20 Q Yeah...

21 A Yeah.

22 Q ...before Marco's Pizza.

23 A Okay, yeah. Yeah, Domino's. I went to a job
24 interview, and I worked like a month in Burger King, but
25 I didn't like, I didn't pull it off. But uninterrupted,

1 in Domino's Pizza.

2 Q Okay. So, you went to an interview at Burger
3 King, and did you perform work for them for a month, you
4 said?

5 A Yeah.

6 Q Okay. So, you worked for one month?

7 A It was like a training, yeah, but I didn't pass
8 it.

9 Q Did they tell you why you did not pass the
10 training?

11 A No.

12 Q They didn't give you a reason?

13 A No.

14 Q They just said: "You didn't pass. Thank you
15 very much. Thank you for coming."

16 A Yeah, and give me the work clothes.

17 Q The what?

18 A And give me back the work clothes.

19 Q The work clothing?

20 A The uniform, yeah.

21 Q The uniform. Okay.

22 A Yeah.

23 Q And do you remember what month it was that you
24 worked at Burger King?

25 A No. No, I don't recall that, no. I don't

1 remember. Maybe it's from the time I went from October to
2 January, but I don't remember the month.

3 Q Alright. So, you do recall having left your
4 work at Domino's in October of 2019. Right?

5 A Yeah, I sent a resignation letter.

6 Q Uh-huh.

7 A Yeah, I sent it.

8 Q Okay. Alright.

9 A A letter of resignation.

10 Q So, do you recall the date you sent that letter
11 of resignation?

12 A I know it was in October, I think it was on
13 October 6.

14 Q Yes, that's my recollection. You sent a
15 resignation on October 6. Right?

16 A Uh-huh.

17 Q Is that your recollection?

18 A Yeah.

19 Q Alright. So, sometime between October 6 and
20 January 28, you went to a training at Burger King and
21 worked with them for one month.

22 A Uh-huh. Yes.

23 Q Alright. You do not recall if it was November
24 or December.

25 A No, I don't recall.

1 Q Alright. And what kind of a position were you
2 training for at Burger King?

3 A Kitchen.

4 Q Huh?

5 A Kitchen, 'cocina'.

6 Q Kitchen?

7 A Yeah.

8 Q Alright. So, let's talk about your work at
9 Domino's Pizza. You recall having sent a resignation
10 letter on October 6, 2019.

11 A Yeah.

12 Q Yes. Do you recall the reasons why you resigned
13 from your work at Domino's Pizza?

14 A Can you ask that again, please?

15 Q Do you recall the reasons you gave Domino's
16 Pizza in your letter for resigning your work?

17 A Not exactly, no.

18 Q Not exactly?

19 A No.

20 Q If I told you that your letter stated that you
21 had found another work with similar characteristics near
22 your residence, would that sound correct to you? Yes or
23 no?

24 A No, because I didn't have work. No.

25 Q Okay. Do you know how it was that you sent this

1 resignation letter to Domino's Pizza? Do you recall how
2 you sent it?

3 A Yeah, via e-mail.

4 Q Via e-mail?

5 A Yeah.

6 Q Okay. To whom did you send it to?

7 A To Farinacci. I only know his, that's his last
8 name, Farinacci, he's the manager from Domino's Pizza,
9 Yauco.

10 Q Okay.

11 A I sent it to him, and he sent it to Sonia
12 Maldonado. And then Sonia like questioned me via e-mail
13 and I answered via e-mail.

14 Q Alright. Okay. And how long did you... I'm
15 going to show you the resignation letter in a few minutes,
16 but how long do you recall having worked for Domino's
17 Pizza?

18 A I started from December 6, 2016, but in other
19 papers I have looked since I left Domino's, that they put
20 that I started working when they, when they offered me to
21 sign with the change of companies, it was Epoch Management
22 and then is FOT Investments.

23 Q But...

24 A Okay. Okay.

25 Q Go ahead. Are you done?

1 A No.

2 Q Okay. So, do you recall there coming a time
3 when the operator of the Domino's Pizza that you were
4 working for was no longer going to continue as the
5 operator of that store, and then you having to sign a new
6 employment agreement with a new operator of the Domino's
7 Pizza. Is that your recollection?

8 A Yeah, that was in February, 2017.

9 Q In February. So, your employer changed at that
10 time?

11 A Yeah, the one who pays us, yeah.

12 Q Exactly. And at some time during the year 2017,
13 you received part of your wages from one company, and then
14 you received part of your wages for the remainder of the
15 year from another company.

16 A No, I only received... Wages? Do you mean
17 wages like what?

18 Q Salary, your income.

19 A Oh, yeah, yeah, yeah. I think you mean taxes,
20 because I didn't file the taxes, that time I didn't find
21 the papers because they didn't have it on system.

22 Q Can you clarify what you're trying to say Kevin?
23 I didn't follow you.

24 A Okay. The time that I was working from December
25 to February, it was from Epoch. If I wanted to file my

1 taxes, they didn't find the records from December to
2 February in Epoch Management, and I didn't like, I didn't
3 get that.

4 Q You didn't get what?

5 A The W2.

6 Q Oh, okay.

7 A From the first company.

8 Q Okay. Alright. And then the new operator came
9 and you started working for them, and did you sign a new
10 employment contract with them?

11 A We didn't, we only signed the rules, and down on
12 the rules it says like how much your gaining, or how much
13 they're paying, and you have to put like \$7.25 an hour,
14 but it was on a paper with the rules on it.

15 Q Okay. You do recall having this change of
16 employer some time in 2017?

17 A Yeah.

18 Q Okay. Alright.

19 MR. VICENTE:

20 Let me... Jorge, let me put up a document here to
21 show it to Kevin. Can you give me access?

22 COURT REPORTER:

23 Yes, you have access.

24 MR. VICENTE:

25 Okay. I got it. Here it is.

1 Q Alright, Kevin, can you see that document that
2 I put up on the screen?

3 A Yes.

4 Q Let me know if you need to, if you need me to,
5 let me see if I can make this bigger, but can you, can you
6 see it and identify it for us?

7 A Yeah. It says from Kevin, sent October 6. Do
8 you want me to read it all?

9 Q I want you to identify it. Is this your
10 resignation letter...

11 A Yeah.

12 Q ...that you sent to Sonia Maldonado?

13 A Uh-huh.

14 Q Yes or no?

15 A Yes.

16 Q Yes. I don't see here that it was sent to
17 Farinacci. Do you see that somewhere here?

18 A No, because it's a forward message. But I sent
19 it via WhatsApp, then he texted me that I can send the
20 paper, the document via e-mail to Sonia. But at first, I
21 sent it to him, because I was going to work that week and
22 I needed to notify him first.

23 Q Alright. And do you have a copy of the WhatsApp
24 that you sent Farinacci?

25 A No, that was an older phone.

1 Q Okay. Do you see what... Can you read what is
2 stated on the second paragraph where it says "the motive
3 for my resignation is having found another job with
4 similar characteristics but closer to the locale of my
5 residence." Do you see that?

6 A Yeah. And can I explain that part?

7 Q Of course.

8 A Okay. When I went off Domino's, I found a job,
9 it's not a job like where they pay you, it's like a lawn
10 mowing service with my brother, like 'podadoras',
11 trimmers, and different locations, different people, and
12 we like privately worked together.

13 Q Okay. So, it wasn't a job with an employer.
14 You were working for yourself and you were offering
15 services such as lawn mowing and things like that?

16 A Yeah, yeah.

17 Q Okay. Alright. And how did that business go?
18 For how long did you and your cousin work...

19 A No, my brother.

20 Q ...during these types of services? I'm sorry?

21 A My brother, not my cousin.

22 Q Oh, your brother. Sorry about that. So, how
23 long did you and your brother provide these types of
24 services?

25 A It's still going.

1 Q Oh, it's still going?

2 A Yeah, it's casually, not like hourly or
3 something, no.

4 Q You mean, you said "casually"?

5 A Yeah. I don't have work every day.

6 Q Alright.

7 A Yeah.

8 Q Then this letter says that the second motive is
9 for...

10 A Lack of benefits.

11 Q ...lack of benefits that you provide at the time
12 of us registering our vehicles with your company.

13 A Uh-huh.

14 Q Which is you, according to this, is different to
15 chains in the United States. Can you explain that?

16 A Yeah. When I was in Orlando, Florida, I got my
17 driver's license, and for you to operate like a delivery
18 driver or something like delivery, at least you have to
19 have three years minimum of driving experience. When I
20 got to, when I got here to Puerto Rico, I asked... When
21 I was in Orlando, I asked in a Domino's Pizza, in a Papa
22 John's, they told me that I couldn't get a job, because of
23 the years experience in the driver's license. But when I
24 came to Puerto Rico, they told me that in the United
25 States they pay different kinds of things like in your

1 car, benefits that you get, healthcare benefits. And when
2 I came to Puerto Rico, I asked all that, and they said
3 like: "It's not like that." It's a different rule in
4 Puerto Rico and a different rule in the United States, but
5 I think it's the same work, the same company. I know it's
6 a franchise, but...

7 Q You don't... Kevin?

8 A Yeah.

9 Q Okay, let me ask you this. Did you work as a
10 delivery driver in Orlando?

11 A No.

12 Q Okay. And how is it that you... Who told you
13 that there were different, there were different benefits
14 in the United States than in Puerto Rico if you never had
15 a job in Orlando driving or delivering pizzas?

16 A Because I asked the people in Domino's Pizza.
17 I went to Papa John's and Domino's Pizza and I asked for
18 work, and they gave me all the papers and all the
19 documents with all the benefits, health benefits, car
20 benefits, gas coverage mileage, a lot of things in those
21 documents that they give you with the application form.

22 Q And this is in Orlando?

23 A Yeah, yeah.

24 Q And do you have copies of those documents you
25 received?

1 A No.

2 Q Okay. So, you never worked for Domino's Pizza
3 or Papa John's in Orlando?

4 A No.

5 Q And your testimony is that, at some point in
6 time, you went to get a job there in Orlando, and they
7 gave you these documents that reflect the benefits that
8 you would have received if they had given you a job?

9 A Yeah.

10 Q And you do not have copies of those documents?

11 A No, because it was a long time ago. I like, I
12 didn't need to save them for no reason at the time.

13 Q Okay. And when did you move back to Puerto
14 Rico.

15 A Two thousand sixteen, like it was May twenty
16 something, then I went back to Texas and came back from
17 Texas on July 14th.

18 Q Okay. So, sometime in May, you moved from
19 Orlando to Puerto Rico...

20 A Uh-huh.

21 Q ...and then you went to Texas for a month,
22 during the month of June, and then on July 14th you came
23 back to Puerto Rico?

24 A Yeah.

25 Q Okay. And what did you do in Texas during that

1 time?

2 A Vacation.

3 Q Vacation?

4 A Yeah, just seeing family friends.

5 Q Okay.

6 A Yeah.

7 Q Alright. Prior to working in Domino's, did you
8 have any other employments? Have you had any other
9 employments?

10 A In Orlando, I was working at Lasership Fast
11 Mile.

12 Q Say that again. I did not catch that.

13 A Lasership Fast Mile.

14 Q What is that?

15 A That's a package handling work. We have like
16 different companies like Amazon, Cardinal Health. It was
17 distribution.

18 Q Okay. And how long did you work there for?

19 A Nine or ten months.

20 Q And what was your job position or your
21 responsibilities?

22 A Package handling.

23 Q Package handling?

24 A Yeah.

25 Q And what did that entail, Kevin?

1 A Sorry? What?

2 Q What did that entail? I understand package
3 handling, but I want to know exactly what it was that you
4 did.

5 A Ah, okay, okay. Well, you get inside of a
6 truck, a 53 wagon or truck and you get out of the truck
7 like 19,000 boxes Amazon, frozen foods, and you take it
8 out, and you put them on the pallets, and you like rename
9 them, like Miami, Ft. Myers, Daytona, and they like send
10 it in different private trucks. Yeah.

11 Q Okay. Alright. And what was your salary over
12 there?

13 A Nine dollars an hour.

14 Q And why did you stop working at Lasership?

15 A Because I had a personal problem with my
16 girlfriend at the moment.

17 Q You had a personal problem with your girlfriend
18 that motivated or moved you to quit your job?

19 A Yeah, money related, and she like kicked me out,
20 and I had like had no place to go, and I went back to
21 Puerto Rico.

22 Q She kicked you out of where you guys were
23 living?

24 A Yeah, that's pretty sad.

25 Q Yeah. Alright. Prior to that job in Orlando,

1 what other employment positions have you had?

2 A There's something called, but that was like a
3 moving work. It's called Socram Air Conditioning.

4 Q Socram? S-O-C-R-A-M?

5 A Yeah, like Marcos but backwards. Yeah, and I
6 was like a refrigeration assistant. I just got the tools
7 and things like that. I didn't like manage to install air
8 conditioning, but I went with the hammer drill and all of
9 that, up and down the stairs, looking for all that they
10 needed.

11 Q Okay. And how long did you work for Socram?

12 A I don't remember. That was a long time ago.

13 Q Okay. And why did you stop working for Socram?

14 A Oh, because I moved.

15 Q Because you moved?

16 A Yeah, yeah. He was our neighbor and he asked me
17 if I could do a little work for him, and I was like the
18 money is fine, so...

19 Q This was in Orlando. He was your neighbor in
20 Orlando?

21 A No, it was in Puerto Rico.

22 Q Ah, okay.

23 A Yeah, yeah. The only work that I had in Orlando
24 was...

25 Q Lasership.

1 A Yeah, yeah.

2 Q Alright. Alright.

3 A And when I was like a little boy, maybe
4 thirteen, fourteen, twelve, I was working at Garaje
5 Carrao(phonetic). I was dispensing gasoline, because I
6 know that before the people weren't supposed to like take
7 your own gas. There were people at the gas station and
8 they would put your gas in the car and I was working in
9 that.

10 Q So, you were a gasoline server at that
11 station...

12 A Yeah.

13 Q ...when you were a young kid?

14 A Yeah, I was a boy, yeah.

15 Q Good. Good. So, let's talk about your work at
16 Domino's. What position did you hold while working at
17 Domino's?

18 A Okay. Delivery driver and maintenance, but it's
19 not a, it's not a position.

20 Q And what did you say? Delivery driver and what?

21 A Maintenance, like janitor.

22 Q Oh, maintenance, janitor. Okay.

23 A Yeah.

24 Q Alright. And these are two separate positions,
25 or is this the same position that you do, perform both of

1 these functions?

2 A They compliment each other, yeah.

3 Q Okay. So, tell me exactly as a janitor or
4 maintenance, what exactly did you do?

5 A Okay. It was in the closing time, at night, we
6 did like dishwashing, the bathrooms, we mopped, we
7 scrubbed the floors, we took gum from under the tables, we
8 washed the windows, and that's about it.

9 Q You said "gum under the tables?" You mean like
10 chewing gum?

11 A Yeah, yeah.

12 Q There were tables at the Domino's store?

13 A Yeah, dining tables, yeah. At the time, I think
14 they're not, because of the COVID, but at that time, yeah.

15 Q Okay. And as a delivery driver, you would pick
16 up pizzas and deliver them to customers?

17 A Yeah.

18 Q Can you hold on one second? I'm going to, let
19 me close this document here.

20 A Okay.

21 Q And open up this page again, which I don't know
22 how to do. Maybe somebody can help me. Jorge, how do I,
23 how do I... I'm trying to figure out how to open up this
24 page again.

25 A Okay.

1 Q I'm sorry, guys. Give me one second, because
2 now I can barely see each one of you. Cisco, do you know
3 how to do this?

4 MR. COLÓN:

5 Pick the screen you want to share. I think you're...

6 MR. VICENTE:

7 Ah, that's what it is. That's what it is. Thank
8 you. Technical difficulties. I'm sorry about that. You
9 know, I could see you in a one by one box and it was very
10 hard for me to see you. So, I was trying to figure out
11 how to do this. Thank you.

12 Q Alright. Other than the Mayagüez store, did you
13 work at any other Domino's Pizza stores?

14 A Yeah, Mayagüez, Yauco, and Ponce.

15 Q Okay. And how long did you work for each one of
16 those stores?

17 A That was casually if they needed someone.

18 Q Oh, okay. So, they would call you if they said:
19 "We're missing a driver in Ponce", they would ask you to
20 go to Ponce and drive pizzas over there?

21 A Yeah.

22 Q Okay. And the same with Yauco?

23 A Yeah.

24 Q But most of the time you worked for the Mayagüez
25 store?

1 A Uh-huh. That was the main store, yeah.

2 Q Okay. And all those three stores were managed
3 or operated by the same company?

4 A Managed?

5 Q Yeah, they were operated by the same company
6 FOT? Do you recall that?

7 A Oh, yeah, yeah, yeah.

8 Q Okay. And what... Go ahead. Were you going to
9 say something?

10 A I think that the one that is in Ponce it runs by
11 another investment, because they get paid, it's a
12 different, a different maneuver when it comes to food and
13 all of that, and that's the store at Ponce. But the other
14 ones, I think they're the same.

15 Q Okay. You're using the word "think". That
16 means that you're not sure of what you're saying?

17 A No, because...

18 Q You're speculating as to whether or not they're
19 operated, the Ponce store is operated by a different
20 company.

21 A No, no. No, no, no, don't get me wrong. I know
22 that they're distributed in different, different... The
23 people that get paid in the West is not the same people
24 that get paid here in San Juan. It's not the same
25 company, because it's a franchise.

1 Q Okay. Let me, let me clarify this. Okay?

2 A Okay.

3 Q Do you, or do you not know whether or not the
4 Ponce store that you worked for, the Yauco store that you
5 worked for, and the Mayagüez store that you worked for
6 were operated by the same company?

7 A No.

8 Q You do not know that for sure?

9 A No.

10 Q Okay. Do you recall receiving your wages from
11 another company other than FOT?

12 A Epoch at first.

13 Q Yeah, but that was prior to joining FOT. Right?

14 A No, that was the only one.

15 Q That was the only one. Okay.

16 A Yes.

17 Q And did you have... What were your time tables
18 of work? Did you have certain hours that you would have
19 to work?

20 A No, it's rotary hours.

21 Q Okay.

22 A Usually, I also, I usually work like at
23 11:00 a.m., because I always was available, and the shift
24 that was available, I would get it. But they don't, they
25 don't pay overtime. So, it's like if I was free this day,

1 I can take an extra day, but they don't give you like two
2 different, two different, like you clock in, you get a
3 meal, and then you clock in and get another, no, they
4 don't do that.

5 Q Okay. My question was whether you had a
6 particular time table that you worked for. For example,
7 if you start at 11:00 and you would work that shift...

8 A Oh, no, the...

9 Q Hold on, Kevin, let me finish your question. Or
10 whether or not the shift would rotate, so you would
11 sometimes start at 11:00, and maybe some other days you
12 would start at 10:00 o'clock, or you know, at 3:00 in the
13 afternoon. They would change the work shifts?

14 A Yeah, they would change the clock-in hours, but
15 the clock-out is like difficult to say, because if it was
16 rush hour, they didn't let you out, they needed you.

17 Q Alright. Let's continue. Alright. Did you...
18 You stated before that you recall sometime ago, you did
19 not precise how long ago, but you do recall having read
20 the Complaint at some point in time, the Complaint is the
21 starting document of this case.

22 A Yeah.

23 Q Yes. I'm going to put it up on the screen so
24 that you can see the first page. Do you see it there?

25 A Yeah.

1 Q Okay. You do recall having seen that document
2 before and reading it?

3 A Yes.

4 Q Okay. After reading this document, were you in
5 agreement with what it said there? Did you review it and
6 carefully analyze what is stated there and you agreed with
7 everything that's stated there?

8 A Yeah, at the moment, yeah.

9 Q Do you understand that this Complaint refers to
10 a type of proceeding called or recognized as a class
11 action where you, as a plaintiff, represent others that
12 are similarly situated as you?

13 A Yeah.

14 Q Yes. And do you understand what that means?

15 A Yeah, that I'm like trying to speak for other
16 people that are not here.

17 Q Okay. And have you discussed your allegations
18 in this Complaint with others of your coworkers at
19 Domino's?

20 A Not Domino's, because I didn't have friends at
21 Domino's. At Papa John's, yeah.

22 Q At Papa John's, but you are aware that this
23 Complaint has nothing to do with the possible friends you
24 may have at Papa John's?

25 A Yeah, at first, I didn't know it, because when

1 I saw the old document, things, and all that, it was an ad
2 and I entered the ad, and I put my information, and it
3 says "Complaint for Pizza Deliverers." It did not say for
4 Domino's, it said for all delivery drivers.

5 Q But now, as we sit here today, you are aware
6 that this demand, or this Complaint has nothing to do with
7 Papa John's, and that you, as a plaintiff, would only, if
8 allowed by the Court, would only represent other delivery
9 drivers at Domino's Pizza?

10 A Yeah, now I know, yeah.

11 Q Okay. And have you discussed any of these
12 allegations with other Domino's Pizza drivers?

13 A No.

14 Q No. And you mentioned an ad, you mean like a
15 published commercial, or a flyer, or something like that?

16 A Yeah. It was on the social media, on Facebook.

17 Q On where? Facebook?

18 A Yeah. It was on the social media.

19 Q Okay.

20 A I filled it out, and I can't tell the time line,
21 and when I filled it out and they contacted me, I really
22 don't know the time, but they contacted me in like, like
23 a month. Like in a month they called me and they sent me,
24 at first, I was like the same, I thought it was fraud, and
25 I was asking a lot, but now, I'm here. But it was on

1 Facebook, the ad was on Facebook.

2 Q Okay. So, you found an ad on Facebook, you
3 filled out your information, and sometime after filling it
4 out, you were contacted by someone.

5 A Yes, by my attorney.

6 Q That was going to be my next question. So, your
7 attorney contacted you thereafter?

8 A Uh-huh.

9 Q Is that a yes?

10 A Yes.

11 Q Did there come a time thereafter where you met
12 with the lawyers that are representing you in this case?

13 A Only one time.

14 Q One time?

15 A Yeah.

16 Q Do you remember when that was?

17 A I don't know. The other time is via internet,
18 because of the COVID.

19 Q So, after having been called, contacted by the
20 lawyer, your recollection is that you only met with them
21 one time?

22 A Uh-huh. In person? Yeah.

23 Q And where was that meeting?

24 A I don't remember.

25 Q Was it in Mayagüez? Was it an office? Was it

1 in a hotel? You don't know?

2 A No, in San Juan.

3 Q It was in San Juan?

4 A Yeah.

5 Q And you don't recall where?

6 A No.

7 Q And who was there?

8 A It was not Colón Ramírez. I asked him about it
9 and it was part of his personnel.

10 Q Were there other people there, Kevin?

11 A No, at the moment, no. I only talked with this
12 guy, but I only gave him my information, and he said that
13 he was going to contact me. It was via Facebook when I
14 filled the form.

15 Q I understand you filled out a form on Facebook.
16 That's clear.

17 A Uh-huh.

18 Q Okay. And I understand that after you filling
19 out that form, somebody contacted you.

20 A Okay.

21 Q Are we clear until then?

22 A Yeah.

23 Q Okay. My question is, you stated that, at some
24 point in time, you met with the lawyers. Is that right?

25 A At that time, no, it was only via internet.

1 Q Okay. After having filled out the form, and
2 having been contacted by them, did there ever come a time
3 when you met with them in person?

4 A No, recently, no, no.

5 Q Okay. Alright. And how recent was that in
6 person meeting?

7 A Today.

8 Q Today?

9 A Yeah.

10 Q Is it your testimony that today is the first
11 time you ever met in person with your lawyer?

12 A With my lawyer? Yeah. Because all the time it
13 was via internet.

14 Q When you say "via internet", is that via e-mail
15 or...

16 A Like this.

17 Q Hold on, Kevin, let me, let me finish the
18 question and then you can answer. Is it via e-mail, or is
19 it via Zoom, or any other of these face-to-face online
20 communications?

21 A Via e-mail.

22 Q Via e-mail?

23 A Yeah.

24 Q Okay. So, the first time you ever personally
25 spoke with your legal representative is today?

1 A Yeah.

2 Q Okay.

3 A I didn't have the money, money wise, and living
4 wise to get here. At that time, I was unemployed, and I'm
5 still unemployed, I only came here today because it's like
6 in another level of all this process. But at first, I
7 couldn't come in to San Juan, because I needed a car and
8 all of that, I have my car, but it's bad, I have a rental,
9 I borrowed a car to get here, because at first if I like
10 have several meetings, I don't have the money to come like
11 Mayagüez, San Juan, three times a week or something like
12 that. He offered me to tell me, and all the information,
13 and all the papers that I have gotten via e-mail.

14 Q Okay. So, let me show you, let me show you
15 another document here. Do you see this document here that
16 says "pizza driver meeting"? Is this the... Does this
17 refresh your recollection as to what kind of an ad you had
18 seen when you decided to fill out the information, your
19 information?

20 A No.

21 Q Is this the first time you've seen that
22 document?

23 A Yeah.

24 Q Okay.

25

1 MR. VICENTE:

2 So, Jorge, we'll mark this document. You should have
3 a file or some documents I have sent to you. We're going
4 to mark this as Exhibit 1 of the deposition. You got
5 that, Jorge?

6 COURT REPORTER:

7 Yes, I did.

8 DEPONENT:

9 The ad that I saw on Facebook was like when you share
10 a photo or something, it says "Like, Share, or Comment".
11 When I saw the ad, it says like in a little square box,
12 "apply", but it was not that.

13 MR. VICENTE:

14 Q Okay. I'm going to try to get another one that
15 may be. Let's see if I can... Alright. I'm trying to
16 get this other form so that I could show it to you to see
17 if you can identify it for us.

18 A Okay.

19 Q Alright. Let's see if this one you recognize.
20 Do you see that one that I put up on the screen?

21 A Something like that.

22 Q Something like that?

23 A Yeah.

24 Q And you press the button and then more...

25 A No, I pressed a button that said "apply".

1 Q Apply?

2 A Yeah.

3 Q But this one looks more familiar to you?

4 A Yeah, yeah, yeah. Inclusive, the 1-800-Law
5 Firm, it was the thing that I saw and I remember.

6 Q Okay. So, the 1-800-Law Firm number you do
7 recognize and that's the number you may have called at
8 some point in time?

9 A No, I didn't call. I only like remember that,
10 yeah, when I was scrolling down, that was the page.

11 Q Okay.

12 MR. VICENTE:

13 Jorge, I'm going to send you this one by e-mail, so
14 that you can mark it as Exhibit 2.

15 COURT REPORTER:

16 Okay.

17 MR. VICENTE:

18 What e-mail should I send it to?

19 COURT REPORTER:

20 crespoyrodriguez@hotmail.com

21 MR. VICENTE:

22 Alright. That's it. We'll mark that as Exhibit 2.

23 Q Alright. And it is your testimony, Kevin, that
24 you have not discussed any of these allegations with any
25 other employee of Domino's Pizza?

1 A No.

2 Q No. And is it your testimony that you feel,
3 even though you have not talked to any of these other
4 employees, that you feel qualified or able to represent
5 them in a case like this?

6 A Yeah. I don't see why not.

7 Q You don't see why not. Alright. Could it be
8 because no other employee was interested in filing a case
9 like the one you filed? Did that ever cross your mind?

10 A Maybe, but I'm a different person. You can't
11 compare me with other people.

12 Q I agree. I agree. So, did you ever... Prior
13 to filing this Complaint, did you ever complain for the
14 same reasons you filed this case to anybody in management
15 at Domino's Pizza?

16 A Oh, yeah.

17 Q Yes? With whom?

18 A Josué Rivera and Michael Pagán. It was... At
19 first it was Farinacci the manager of Yauco, but before
20 that it was Pagán, I think it was Carlos Pagán. But with
21 Josué Rivera, yeah. Josué Rivera is the store supervisor
22 for the West and South.

23 Q So, your testimony is that you, at some point in
24 time, complained to José Pagán... Josué or José?

25 A Josué Rivera.

1 Q I'm sorry. Josué Rivera, that's right.

2 A Yeah.

3 Q And Carlos Pagán.

4 A Uh-huh.

5 Q Yes?

6 A Yes.

7 Q I want to know exactly what it is that you told
8 Josué Rivera.

9 A I told him that it was, at a point, it was
10 unfair, because I was asking him to give me like a little
11 more chance to like build me up in the industry, because
12 I only was a delivery driver, and I wanted to do more.
13 And when I told him that it was less that I was having
14 less money, I couldn't, like fix my car to get at the
15 hours, all that I told him that he could like give me an
16 opportunity in another store, like with extra hours, not
17 half and half, because he didn't, he didn't lend me a hand
18 at all. When I told him my personal situation, he like,
19 at that time, he laughed at me, because I was trying to
20 like, trying to get him to see that I was struggling, but
21 I didn't want to quit the job, I wanted to be there,
22 because I was available.

23 Q Okay. So, your complaint to Josué Rivera was
24 about not having enough work hours?

25 A Yeah.

1 Q Okay. Okay. Are you aware that the Complaint
2 you filed here is not about having more work hours, it's
3 about a different subject?

4 A I know. Yeah, but you asked me.

5 Q Okay. So, let me, let me go back. My question
6 was, and perhaps you did not understand my question. My
7 question was, did you ever complain to anybody in
8 management at Domino's about the same allegations, not
9 different, the same allegations you are raising in this
10 Complaint?

11 A At Yauco to Pagán.

12 Q To Pagán. And what did you say to Pagán?

13 A Well, when I got to Yauco, I saw that they were
14 paying the deliveries \$1.00 and \$2.00, and even at \$3.00
15 if it was far away. And I asked that, because I always
16 said that in Mayagüez they didn't pay well the service.
17 Because the hourly, the hourly, the \$7.25, okay, good.
18 But the tips, I think that in Yauco they like paid you
19 more, and it's not even that far. And in Mayagüez, it's
20 only \$1.00, and I always told Pagán like where are the
21 people that I can talk to, so I can explain and they can
22 explain to me. And they always like, we leave it at
23 there, because I don't know many people at the company.

24 Q Do you have any evidence that in the Yauco store
25 drivers were getting paid more than in Mayagüez?

1 A I don't have, I don't have that, but... No, I
2 don't have that.

3 Q Then what was the basis for your complaint to
4 Mr. Carlos Pagán?

5 A Because when I saw that I was getting a delivery
6 to a location, when I got paid \$2.00, I was like, "Why
7 \$2.00?" And then he explained to me the maneuver, the
8 procedure that they were doing at that store. And I like:
9 "And why don't they do it in every store?" And I didn't
10 get far enough in that complaint, because he's not, he's
11 not a big guy in Domino's, he's only a manager in Yauco at
12 the time, because he's not the manager right now.

13 Q How many times did you get paid \$2.00 in Yauco
14 for a delivery?

15 A If we're talking about twelve deliveries out of
16 the day, maybe three, three paid deliveries.

17 Q So, out of all of the deliveries that you made
18 during one day, three of them you were paid \$2.00 per
19 delivery?

20 A Yeah, but only in Yauco.

21 Q Only in Yauco.

22 A Yeah.

23 Q So, let me, let me get this straight. You would
24 get \$1.00 per delivery. So, if you would leave the store
25 with two deliveries, you would get \$2.00. Is that right?

1 A No. On one order. There are orders that are
2 \$1.00 tip, or \$1.00 they pay you, the company pays you.
3 But other deliveries are \$2.00, depending on the route or
4 the location, if it's far. But in Mayagüez, there are far
5 places that they only give \$1.00. And in Yauco, they're
6 not that far away and they're giving \$2.00. And my
7 complaint always was like why are they not paying
8 everybody the same if it's for like distance and
9 trajectory.

10 Q And did you discuss this with any other employee
11 at any point in time, this issue that you're talking about
12 now?

13 A Only with the manager...

14 Q Only with the manager.

15 A ...in Yauco. Because I have coworkers, I don't
16 have friends, you know. In my work, I have coworkers, I
17 don't have friends. I really didn't used to talk to
18 anybody, because I go to work to work, not to make
19 friends.

20 Q And why did you not discuss this with the
21 manager in Mayagüez where you had many more deliveries
22 than you did in Yauco?

23 A Because at first when I was in Yauco when I got
24 to Mayagüez I asked her, but she told me, she told me
25 like: "It's different stores, it's different rules."

1 That's what she told me in Mayagüez, I asked her in
2 Mayagüez and she told me that.

3 Q Who did you ask in Mayagüez?

4 A The manager at that time.

5 Q Who? Who is that person?

6 A Alejandra Morales.

7 Q Say that again?

8 A Alejandra Morales.

9 Q And what exactly was it that you discussed with
10 Alejandra Morales?

11 A I told her that in Yauco they were paying me
12 \$2.00 for delivery, and what about here in Mayagüez? And
13 she told me like: "It's different stores, different rules,
14 different payment." And I always asked her like: "And the
15 distance, that must affect?" But it was like a complaint
16 with no conclusion, it never reached the end.

17 Q And in Yauco, how many deliveries would you make
18 per trip?

19 A Per trip? One.

20 Q Okay.

21 A Yauco is not a busy company, a busy Domino's, at
22 Yauco, it's not busy. Mayagüez it's busy. Ponce is busy.

23 Q So, in Mayagüez there would come a time where
24 you would take more than one delivery per trip?

25 A Yeah.

1 Q And isn't it correct, Kevin, that when that
2 situation happened, you were paid \$1.00 per delivery?

3 A Yeah.

4 Q Yes. So, if you would take two deliveries in
5 one trip, you would get \$2.00, \$1.00 per delivery.

6 A Yeah.

7 Q Yes. Okay. Any other person that you may have
8 discussed this issue with in management?

9 A Nobody else, just Pagán.

10 Q Just Pagán.

11 A Yeah.

12 Q So, with Josué you discussed another matter,
13 which was you needed more hours to work?

14 A Yeah.

15 Q You wanted more time working?

16 A Yeah, because I needed to... At that moment, I
17 needed to fix my car, it was making problems, starting
18 with problems, and I asked him if he could lend me a hand
19 like giving my hours in Mayagüez and extra hours in Yauco,
20 so I can get like extra money so I could pay my parts for
21 the car. And I asked him kindly, and he like, he offended
22 me with his gestures.

23 Q He offended you with his gestures?

24 A Yeah.

25 Q What kind of gestures are you talking about?

1 A Well, he was not like paying attention like you
2 are, looking at me via camera. And he was like, when I
3 told him about all the problems I was having, he told me:
4 'Voy a bregar con tu situacioncita', and that's a very
5 disrespectful way of speaking.

6 Q Alright. So, Kevin, I'm going to put up the
7 Complaint again...

8 A Okay.

9 Q ...upon the screen. And I'm going to go
10 through, try to go slowly through the pages here, because
11 I want you to review them. And although you already said
12 that you, at some point in time, had read this Complaint,
13 I want you to look through it and see the extent of it,
14 and then I'm going to ask you some questions. And I'll go
15 page by page, so I can give you some time to read the
16 particular allegations that I want to discuss with you.

17 A Okay.

18 Q But looking at this now, this is the Complaint
19 that you recall having reviewed at some point in time?

20 A Uh-huh.

21 Q Okay. Now, let me, let me go back to your
22 complaints to management. Did you ever, did you ever
23 raise any of the complaints that you discussed here with
24 us to Human Resources at Domino's?

25 A They never answered. They never answered.

1 Sonia Maldonado, we, I tried multiple times to talk with
2 Human Resources, and like trying to explain myself, but
3 they didn't answer. At the time when I gave my
4 resignation letter, he told me that... Wait. Wait, wait,
5 wait. I lost track. Where were we?

6 Q My question was, did you ever contact anybody at
7 Human Resources to discuss your complaints.

8 A Okay. When I sent the resignation letter, it
9 was via e-mail, because I called, and called, and they
10 never answered.

11 Q Okay. So, it's your testimony that you called
12 Human Resources and never got to speak to them personally?

13 A Yeah.

14 Q Okay. Did you write any e-mails to Human
15 Resources?

16 A No.

17 Q Did you write any letters to Human Resources?

18 A No.

19 Q So, as we sit here today, the only complaints
20 you raised were in person with Mr. Josué Rivera and Carlos
21 Pagán?

22 A Uh-huh.

23 Q Okay. So, do you have a copy of the Complaint
24 there with you, or the only documents that you have with
25 you are the interrogatories and the answers?

1 A The interrogatories. I don't have the copy of
2 the Complaint.

3 Q Okay. Let's see if we can, and maybe you can
4 respond to some questions, if not, I'll ask Cisco to hand
5 you a copy if he has one nearby.

6 A Okay.

7 Q Do you... What is your recollection of what it
8 is being claimed, what it is that you are claiming on your
9 behalf, and on behalf of other drivers in Domino's, in
10 this Complaint?

11 A That we get paid fairly.

12 Q Okay. And what does that mean? What exactly
13 are you claiming?

14 A I don't understand that question.

15 Q You don't understand that question.

16 A No.

17 Q Do you know exactly what it is that you are
18 claiming in this judicial complaint that has been filed on
19 your behalf, and on behalf of other drivers of Domino's
20 Pizza?

21 A I really, I really don't understand like what
22 you're trying to...

23 Q Okay. I'm trying to simplify it as much as I
24 can.

25 A Okay.

1 Q But it is kind of hard, because it is your
2 Complaint. You are the named plaintiff in this case.

3 A Okay.

4 Q And you are telling the Court that you are able
5 to represent others similarly situated employees of
6 Domino's. Okay? So, I'm trying to be as fair as I can
7 and give you all of the opportunities in the world for you
8 to explain. So, I don't want to be suggestive of an
9 answer. I want you to tell us what is your claiming.
10 Okay?

11 A Okay. Well, I applied to this a long time ago,
12 and I, it's in my interrogatory if I can look for it or
13 something.

14 Q Go ahead. If you want to look through any
15 documents you have there available, if you want to look at
16 the Complaint, that's fine.

17 A Okay. Because all the answers that are here, I
18 provided but it was a long time ago. I really like don't,
19 don't remember.

20 Q Okay. So, let me, let me clarify this for you.
21 I'm not asking you to remember what you answered...

22 A Okay.

23 Q ...in any of the interrogatories I sent you.
24 Okay?

25 A Okay.

1 Q What I want to know is for you to tell us in
2 your own words...

3 A Uh-huh.

4 Q ...what it is that you are claiming in this
5 case? What is your complaint?

6 A That they're not paying fair enough on the
7 delivery matter. They're like... I'm asking to Domino's
8 that they can be like, like transparent, I'm telling
9 Domino's to be transparent with all of their employees to
10 have a better job. I don't know what to say, I'm
11 advocating for my rights.

12 Q And that's exactly what I'm trying to get at.
13 You are claiming some rights, and I understand that your
14 testimony here today is that you were not being paid
15 fairly.

16 A Uh-huh.

17 Q But I want to know exactly what you mean by not
18 being paid fairly, Kevin? Because, again, you're filing
19 a Complaint with very specific allegations where you are
20 claiming that you can represent others, drivers of
21 Domino's Pizza in a judicial complaint. And I understand
22 your position that it was unfair pay, but I want to know
23 exactly what it is that you want. What would have been
24 fair? Okay? What is it that you're claiming?

25 A It would have been fair if they like asked me

1 how would I like to get paid. If they, if they can
2 register your vehicle to some company, I think they can
3 have the insurance, or the, to less, to manage something
4 that is maintained, because it's your private car. There
5 are some companies where you use delivery cars, but it's
6 from the company. But we're using our private car, it's
7 a lot of cost in tires, maintenance, and it's a lot. And
8 I think that a \$1.00 tip, or \$1.00 pay for the delivery is
9 not enough when we need to use a lot of a car.

10 Q Okay. Do you have any records of your expenses
11 of using your car while working for Domino's?

12 A At that time, no. A 'bitácora', I usually don't
13 do that with work. I do that with my psychiatrist, but
14 with work, I don't use a 'bitácora', I use my inner, my,
15 my...

16 Q Okay. I'm not asking you for a log, Kevin. I'm
17 asking you for any records or evidence that you may have
18 of these costs and expenses that you claim were not being
19 compensated. You mentioned insurance, you mentioned cost
20 of using your car, which I assume could be gasoline. But
21 again, I did not want to put words in your mouth. I
22 wanted to know exactly what it was that you're claiming.

23 A Okay.

24 Q But you said tires and maintenance. I want to
25 know if you have any records of having paid any of these

1 things while you worked for Domino's Pizza.

2 A No, I don't have records.

3 Q You don't have records. Okay. So, you don't
4 have records of having paid insurance for your car...

5 A Oh, yeah.

6 Q ...for 2017, 2018, and 2019 when you worked for
7 Domino's. Is that correct?

8 A Yeah...

9 Q I'm sorry, say that again. You do or you do
10 not?

11 A Wait, wait. Okay. Tell me again.

12 Q Do you or do you not have records or evidence of
13 the insurance you paid for using your car while working at
14 Domino's Pizza?

15 A Yes, I have records and evidence for my
16 insurance, but not for everything that I used for the cost
17 of my vehicle, like oil changes, tire changes, wipers, all
18 that they pay it in the United States.

19 Q Okay. So, let's start by your insurance.

20 A Okay.

21 Q Where are those records?

22 A In my house. I don't have them with me right
23 now.

24 Q The fact is you have not produced them in this
25 case.

1 A No.

2 Q No. Okay. And I understand you also said that
3 other than the insurance, you do not have records of
4 having changed tires, or paid for new tires, or paid for
5 brakes, or paid for gas. You don't have those records.

6 A No.

7 Q No. Or wipers, you even mentioned. Right?

8 A No.

9 Q No. And do you recall how much was your
10 payment, your insurance payment for your car during the
11 time period you worked for Domino's?

12 A One hundred ninety-one, \$200.00, \$191.00.

13 Q You mentioned insurance. Was that a private
14 insurance or was that the compulsory insurance that the
15 Government of Puerto Rico imposes on car owners?

16 A Compulsory insurance.

17 Q Ah, okay. So, you did not have a private
18 insurance?

19 A No.

20 Q Okay. So, that payment of that insurance was
21 compulsory by the Government of Puerto Rico, and you would
22 have had to pay it regardless of where you were working.
23 Right? If you wanted to have a car, you would have to pay
24 it.

25 A Yeah.

1 Q Yes. It is not a condition on working at
2 Domino's Pizza, or for working at Domino's Pizza.
3 Correct?

4 A No, the only condition you need is that it's up
5 to date.

6 Q Correct.

7 A Uh-huh. But to produce the money to make the
8 compulsory insurance I needed the work, I needed extra
9 hours that I'm complaining about.

10 Q Alright. So, let's get this clear. You were
11 being paid \$7.25 per hour. Right?

12 A Uh-huh.

13 Q Yes or no?

14 A Yes.

15 Q And in addition to that \$7.25, you would be paid
16 \$1.00 per delivery. Is that correct?

17 A Yes.

18 Q Okay. And your claim is that even though you
19 were paid in excess of minimum wage, which is \$7.25, that
20 dollar, additional dollar per delivery is not sufficient
21 to cover your alleged expenses for using your car. Is
22 that right?

23 MR. COLÓN:

24 Objection. Harold, you're saying he was being paid
25 in excess of minimum wage. He was not.

1 MR. VICENTE:

2 No, that's not what I said. I'll rephrase.

3 MR. COLÓN:

4 Okay.

5 MR. VICENTE:

6 You said you were paid minimum wage, but in addition
7 of minimum wage, you were being paid \$1.00 per delivery.
8 That's what I said, and I'll repeat the question. Okay?

9 MR. COLÓN:

10 Okay.

11 MR. VICENTE:

12 Q So, Kevin, in addition to being paid minimum
13 wage, which was at that time \$7.25, Domino's Pizza would
14 pay you \$1.00 per delivery. Is that correct?

15 A Yes.

16 Q Yes. And that \$1.00 per delivery meant that
17 every pizza you delivered to different addresses or
18 customers, you would get \$1.00, regardless of the trip you
19 were making. Is that correct?

20 A Yes.

21 Q Yes. Okay. So, there could be a time when you
22 got to the store and they said: "Take these two pizzas,
23 and take them to these two different locations", or two
24 different customers in one trip, and you would get paid
25 \$2.00.

1 A Uh-huh.

2 Q Yes?

3 A Yeah.

4 Q Okay. And your complaint is that the \$7.25,
5 minimum wage that you were getting paid, plus the \$1.00
6 per delivery, as we have described here today, was not
7 sufficient to cover your expenses for using your car. Is
8 that correct?

9 A Uh-huh. Yes.

10 Q Yes.

11 A In addition to that, in addition to that, if you
12 take two deliveries on different addresses, and one is to
13 the West, and the other is to the East, I'm clearly
14 thinking that it's not compensate for \$1.00, because it's
15 a lot of distance. And you're going first to the West
16 side, and then you're going to the East side of Mayagüez
17 for \$2.00. I think it's not fair, because it's a lot of
18 distance that you have to like travel.

19 Q Okay. Do you have any records, Kevin, of the
20 distance you would travel from one place to the other
21 while doing deliveries?

22 A No.

23 Q You don't have any records of that?

24 A No. I...

25 Q I'm sorry, Kevin. So, it could have been one

1 mile, it could have been five miles, you don't have any
2 records that you can show us at this time?

3 A No. I can show you on Google Maps the limited
4 side of Mayagüez, and you locate Domino's, and you put it
5 on like different locations in and out, and it will say to
6 you what I'm saying, I'm trying to explain to you.

7 Q Okay.

8 A But evidence, I don't have it right now.

9 Q Let me, let me ask you this, Kevin. Isn't it
10 true that Domino's has a policy that you, as a driver,
11 must deliver a pizza within thirty minutes. Is that
12 right?

13 A Yeah.

14 Q Yes. So, you, as the driver, have to comply
15 with that policy that when you picked up a pizza at the
16 store, you were supposed to get it to the customer within
17 thirty minutes, not from when you picked it up, but from
18 when that person called the store to order the pizza. Is
19 that right?

20 A Yeah.

21 Q Yes. Were you ever admonished or reprimanded
22 for not having complied with those thirty minutes?

23 A Never, no.

24 Q Were you always on time to deliver your pizzas?

25 A I can say yeah, because of the traffic and all

1 of that, but I think we were on time at that time. About
2 thirty minutes, no.

3 Q If you would not have complied with the policy,
4 somebody in management would have said: "Hey, Kevin,
5 you're not getting the pizzas on time to our customers."
6 Is that right?

7 A Well, yeah.

8 Q Yes. And you never got a complaint like that?

9 A No.

10 Q No. Okay.

11 A I got a complaint about driving fast, because
12 some customers called the store and they talked like: "He
13 went through the light, and he like was like very crazy
14 driving", and I was like trying to get on time.

15 Q You mean a customer called you up for driving
16 fast? Is that what you're saying?

17 A No, they called the store and they told about my
18 white car and all of that. "Ah, he's driving fast." And
19 I tried to explain that I was going to deliver a pizza and
20 the manager at that time told me like: "Okay. You should
21 go fast, but not that fast."

22 Q Okay. So, somebody reported you on driving
23 fast?

24 A Yeah. I took it like a joke, because I was
25 doing my job, literally.

1 Q Okay. Alright. And are you aware that Domino's
2 Pizza has an area of service within each store? Are you
3 aware of that?

4 A Yeah.

5 Q So, for example, somebody from, let's say
6 Aguadilla or Isabela, cannot call the Yauco store and say:
7 "Hey, I want a pizza from the Yauco store." Right?

8 A No.

9 Q Because if they do, the person attending the
10 call in Yauco is going to say: "No, you need to call your
11 nearest store in Aguadilla", or something like that. Is
12 that right? Am I right?

13 A Yeah.

14 Q Yes. And so, isn't it also true, Kevin, that
15 within the township of Mayagüez, there are areas where
16 Domino's will not serve pizzas?

17 A Yeah, I know, I'm aware of that.

18 Q Yes, you're aware of that. Because if they did,
19 they would not comply with the thirty minutes.

20 A No.

21 Q Okay.

22 A Even without that destination that you told me
23 that is not the entire Mayagüez, we don't get the pizzas
24 at thirty minutes, because of all the lights and the
25 traffic. Mayagüez is kind of heavy in that aspect, the

1 same like San Juan.

2 Q So, you mean that during rush hour maybe you
3 could not deliver a pizza within thirty minutes? Is that
4 what you're saying?

5 A No, maybe I get out of the store with two
6 deliveries for different locations, and my estimated time
7 would be like forty, fifty, not an hour, but with the
8 first one I would get there like in forty minutes, and the
9 other one like forty minutes and that's too much.

10 Q But you don't recall ever having had a complaint
11 by any of the customers saying: "Hey, Kevin did not bring
12 me the pizza within time." You don't recall, you don't
13 recall receiving that?

14 A No.

15 Q Okay. No. So, Kevin, let's take a, let me take
16 a five-minute break here.

17 A Okay.

18 Q If you need to go to the bathroom, please do.
19 It's going to be just five minutes, so, you know.

20 MR. VICENTE:

21 Francisco, be back in five minutes. Is that alright?

22 MR. COLÓN:

23 Alright.

24 MR. VICENTE:

25 Okay.

1 OFF THE RECORD

2 MR. VICENTE:

3 Off the record we were discussing an issue with the
4 exhibits. Crespo & Rodríguez already has Exhibit
5 Number 2. Apparently they have not seen or they don't
6 have a copy of Exhibit 1, I'm going to send it to them,
7 but Exhibit Number 1 was the long, kind of orange flyer,
8 I'll put it up again so that you can see it. Alright?
9 Cisco, you see that? That's going to be Exhibit 1.

10 MR. COLÓN:

11 Okay.

12 MR. VICENTE:

13 Okay. And I'll send it to Crespo & Rodríguez. Okay.
14 So, we'll mark Exhibit 3 the Complaint. Okay? Which is
15 that one that's on the screen now.

16 MR. COLÓN:

17 Harold, can you send me by e-mail the exhibits?

18 MR. VICENTE:

19 Yeah, what I'll do is I'll send them altogether.
20 I'll mark them.

21 MR. COLÓN:

22 Okay. Perfect.

23 MR. VICENTE:

24 I'll mark them and then I'll send them altogether.

25

1 MR. COLÓN:

2 Okay. Thank you.

3 MR. VICENTE:

4 Alright.

5 Q So, Kevin, in addition to what we have discussed
6 the \$7.25, plus the \$1.00 per delivery, you also received
7 tips from the customers that received the pizzas. Is that
8 right?

9 A Correct.

10 Q Correct. And do you have a recollection or any
11 records of how many tips or dollars you would receive in
12 tips per week?

13 A No.

14 Q No?

15 A No.

16 Q Any evidence, documents?

17 A No.

18 Q Did you report on your income tax returns the
19 tips, money you received from customers?

20 A No.

21 Q No. And what would be your estimate of how much
22 money you would receive per week on tips?

23 A In a week, maybe \$10.00.

24 Q How many deliveries did you do during a week?

25 A A lot, but people usually don't give tips.

1 Q People usually don't give tips?

2 A No. They usually give you the exact money. And
3 you'll like be on your way it kind of be like a rich place
4 or something, but most of the cases in Mayagüez, they
5 don't give tips.

6 Q Do you recall discussing the fact that Mayagüez
7 customers were not good tippers with other coworkers or
8 employees?

9 A Say it again? I didn't understand the question.

10 Q Do you recall ever discussing with other of your
11 fellow drivers, that people in Mayagüez were not good
12 tippers?

13 A Oh, yeah, yeah, yeah. A lot of times. Like,
14 yeah. Like we came from a delivery and we said like we
15 were in that address with the, yeah, the nice guy and like
16 we remember the guys that don't pay tips, or the people
17 that don't pay tips.

18 Q And who did you discuss, with what other drivers
19 did you discuss this tips issue with?

20 A With José Salichi.

21 Q José Salichi?

22 A Yes.

23 Q One follow up question from other topics we were
24 discussing earlier. You're currently unemployed. Are you
25 collecting unemployment benefits?

1 A Say that again? I didn't understand.

2 Q It's my understanding that you're currently
3 unemployed. And my question is, are you collecting
4 unemployment benefits...

5 A Yes.

6 Q ...of the government?

7 A Yes. At first I was trying to get unemployment
8 benefits with Domino's, but they neglected(sic) the help,
9 and they like, Marco's Pizza accepted the, all the
10 procedure of doing the unemployment benefits, but with
11 Domino's, they didn't give me nothing. They rejected the
12 benefits.

13 Q You said "at first", but now you are collecting?

14 A Yeah, because I was unemployed, but I had to
15 wait from last year to October 11 to my first unemployment
16 benefit form to expire to then open another one.

17 Q I didn't get that, Kevin. I did not get what
18 you said. Say that again.

19 A Okay. When I was... Can you repeat the
20 question again?

21 Q My question was a follow up to your answer.
22 Because you clarified that "at first"...

23 A Okay.

24 Q ...Domino's objected or something happened with
25 your unemployment benefits. But that now you are

1 receiving unemployment benefits.

2 A Yeah, with Marco's Pizza, because with Domino's,
3 I got to the 'Departamento del Trabajo' and I asked if I
4 can get the benefits, and Domino's rejected, because I
5 think the 'patrono' is the people that pay you, not
6 'Departamento del Trabajo'. They like get an
7 authorization. The employer is the one that pays you.

8 Q Okay. The fact is, you are receiving
9 unemployment benefits now from the government.

10 A Yeah.

11 Q Yes. Okay. Did you receive any of the Federal
12 assistance for the PUA? For the...

13 A No.

14 Q No? You haven't received any of those?

15 A No.

16 Q Alright. Did you at any time use any kind of
17 dispositive or system to track the mileage that you would
18 move in deliveries in Mayagüez?

19 A No. There's no application for mileage. At
20 Marco's Pizza, they have an application, but at Domino's,
21 no.

22 Q Oh, okay. So, Domino's Pizza did not, you did
23 not use one, and Domino's Pizza did not provide you one to
24 track the mileage?

25 A No. The only thing that they have in Domino's

1 Pizza is when you clock in, you put your information, and
2 at the bottom of the screen on the computer it says "begin
3 odometer" and "end odometer", but it's faded, so you can't
4 type in that line.

5 Q Can or can't? Can or can't type? Can or
6 cannot?

7 A Cannot, cannot.

8 Q Okay.

9 A You cannot type anything on that form, 'ese
10 campo', you can't write there anything. You can't write
11 your numbers, or nothing, only clock in, clock out, and
12 break. But they have an option that they can pay you
13 mileage, and they can tract mileage on their computer on
14 Domino's, but they have it faded, they have it like locked
15 on the computer, you can't access that information.

16 Q So, you never filled that information out?

17 A No, because you can't type in the 'campo', you
18 can't write.

19 Q Okay. You can or cannot?

20 A Cannot, you cannot type on it.

21 Q So, you did not type it in because you could not
22 do it?

23 A No, because the system does not let you do it.

24 Q Exactly.

25 A Yeah.

1 Q Okay. And did you question anybody about that?

2 A At some point, yeah, the general manager at
3 Mayagüez, but they told me that that was a system from the
4 United States, and they, in Puerto Rico, they didn't use
5 that.

6 Q Okay. And who is this person that you spoke
7 with?

8 A Alejandra Morales.

9 Q Alejandra Morales?

10 A Manager at the time.

11 Q Okay. Do you know, Kevin, if Domino's Pizza
12 ever made any analysis as to the mileage to be contained
13 within the areas of service of each store? Do you know
14 that?

15 A If I know or do not know?

16 Q Are you aware if Domino's Pizza did any type of
17 analysis to ascertain the mileage to which they would
18 service from each store, the mileage around the store?

19 A In the time that I was working, they never did
20 an analysis.

21 Q Are you aware of that?

22 A Yeah.

23 Q And who did, how did you become aware that they
24 did not do it? Did you ask somebody?

25 A Yeah, the manager. Usually the person that

1 controls the time on the drives is people from San Juan
2 that come and check, and we usually get visits one time,
3 one time, two months.

4 Q Okay. Who did you ask?

5 A The manager at the time.

6 Q Alejandra...

7 A Morales, yes.

8 Q ...Morales?

9 A Yes.

10 Q And what did she say?

11 A That the people that do the analysis they are in
12 San Juan, and the people in charge of that, if I don't,
13 Dilia, that's the person that's in charge of that.

14 Q Delia?

15 A Yeah.

16 Q D-I-L-I-A?

17 A Dilia.

18 Q And she's in charge of what?

19 A She comes to the stores, the time that she came
20 to the store that I saw her the first time, she came to
21 the store, she observes the pizza with a thermometer if
22 it's in good heat, she puts poster boards on the wall for
23 writing the time on the deliveries, not the mileage.

24 Q Oh, okay. Alright. So, perhaps you did not
25 understand my question. Let me, let's clarify this. This

1 person Dilia, and you spoke with Alejandra about the
2 delivery times of making sure that the pizzas would get
3 there warm enough. Is that what you're saying?

4 A Uh-huh.

5 Q Okay. Yes?

6 A Yes.

7 Q Okay. My question though, Kevin, was are you
8 aware, okay, if Domino's Pizza ever analyzed the areas of
9 service, the mileage around the store to which they would
10 service?

11 A I'm aware, yeah.

12 Q You're aware?

13 A Yeah.

14 Q And what are you aware of?

15 A That they did not do it.

16 Q That they did not do what?

17 A Check the mileage on the, on the city limits on
18 Mayagüez. Maybe they did it on the computer, but in
19 person, I've never seen anybody. In the time that I was
20 working, usually when you start working at Domino's,
21 there's somebody that sits with you and tells you where's
22 the main locations of the restaurant. But they don't like
23 give you something so you can make up evidence, or like
24 put up evidence in a paper so you can get exactly what you
25 need in money wise, like delivery tips, like the \$1.00 per

1 delivery, that's, I think it's a bad system in that way,
2 like a bad maneuver.

3 Q A bad what?

4 A A bad maneuver.

5 Q Okay. So, you are... It is your understanding
6 that nobody in Domino's did that, because you never saw
7 somebody come to the store and analyze it? Is that your
8 testimony?

9 A Uh-huh.

10 Q Yes?

11 A Yes.

12 Q Okay.

13 A Even in the time when I was working, I would
14 like give ideas when 'mercadeo'...

15 Q Marketing.

16 A ...marketing put flyers, posters on the light
17 posts, and every idea that we get, we always talk to Leo,
18 Leo is the chief of Marketing. I don't remember his last
19 name. But we also tried to like talk to him, and did like
20 extra work in marketing the place, because we may be low
21 on hours, and we needed our hours, and so we needed more
22 customers. And then we put out the idea, but they never
23 get it, like we can do this, we can do that, but they
24 never like, they like never heard you.

25 Q Who's Leo?

1 A Leo is, I think he's the chief of Marketing. I
2 never saw him in person.

3 Q Okay. And how exactly was it that you
4 transmitted ideas to Leo if you never saw him?

5 A No, no, I transmitted the ideas to the employer,
6 the manager at the restaurant, so they can talk to him, or
7 talk to a higher person in position, so they can like get
8 the idea, maybe like do it, and maybe it would be all good
9 and...

10 Q These ideas or marketing ideas were in order to
11 attract more customers to Domino's Pizza?

12 A Yeah.

13 Q This has nothing to do with your alleged
14 complaint that you were not being compensated fairly as
15 you described it?

16 A Yeah, I know, I add it up.

17 Q Okay.

18 A Yeah.

19 Q While you worked for Domino's Pizza, Kevin, did
20 you always use the same car? I understand you used a 2011
21 Toyota Yaris.

22 A Yes.

23 Q Okay. You never used another or a different
24 vehicle?

25 A No, they don't let you. You can't clock in if

1 you have another vehicle. You have to be registered on
2 the company. But it was the only car that I used.

3 Q Okay. Is it your testimony that the company
4 requires the car to be registered to your name as the
5 driver?

6 A Yeah.

7 Q So, if you did not own a car, and say your mom
8 had a car, you would not be able to drive for Domino's and
9 say, you know, "I have my permission from my mother, and
10 here's my permission, it's her car and I'm allowed to use
11 it."

12 A No, they don't, they always told me like if you
13 have a different car, and you don't have your personal car
14 and you have an accident, we can't pay you for expenses,
15 or injury, or something, if it's not your car. So, I
16 assume that you need your car. If you can make an
17 authorization with your family and they can do it, fine.

18 Q Okay. So, you're assuming this?

19 A Uh-huh. Yes.

20 Q Yes. Okay. So, you do not know for a fact that
21 that is a policy of the company? There could be other
22 drivers that do not own cars, but...

23 A When I...

24 Q Hold on, Kevin, let me finish the question. But
25 their parents own a car and they bring the car to work,

1 they register the car under their parents name, and have
2 an authorization to use it, and they're allowed to use it.
3 Is that right?

4 A When I started, they didn't tell me nothing of
5 it.

6 Q So, you're assuming that that was the policy,
7 but you're not certain that is.

8 A That's what they told me. Like: "You need your
9 private car. Do you have a private car?" And I said:
10 "Yeah."

11 Q Kevin, the tips you would receive, you would not
12 have to turn them into the company to be calculated.
13 Those tips were yours and you would put them in your
14 pocket, and they were yours. Right?

15 A Uh-huh. Yes, correct.

16 Q They were not shared with other drivers, they
17 were your tips to have?

18 A Correct.

19 Q Yes?

20 A Yes, correct.

21 Q Give me one second. I want to clarify
22 something. Hold on one second. Alright. Kevin, now you
23 said you had the Interrogatories and the Answers to
24 Interrogatories there in front of you?

25 A Yeah.

1 Q Okay. And isn't it true, Kevin, that the only
2 documents you produced, you have produced in this case up
3 to now are your resume, and the Certificate of Achievement
4 for safe food handling. Is that right?

5 A Uh-huh.

6 Q Yes or no?

7 A Yes.

8 Q Yes. You have not produced any other documents,
9 no records of gasoline payments, tires, costs, wipers,
10 maintenance, oil changes, none of that you have?

11 A No.

12 Q No. The only other item you mentioned was
13 insurance, and you said you had those because those were
14 the records of paying your registration every year, that
15 would contain that information. Right?

16 A Correct.

17 Q Yes?

18 A Yes.

19 Q Okay. So, you have already testified that you
20 have not discussed this case with any of the other
21 co-drivers at Domino's. Right?

22 A Correct.

23 Q Can you tell us why it is that even though you
24 have filed a class action complaint you have not
25 endeavored to discuss this matter with any of the other

1 co-workers you had while working at Domino's?

2 A Because they are not my friends, they are my
3 co-workers. I don't, I don't have an extensive
4 conversation with my co-workers, I only go to work and
5 make money. I found out about that in my house, and I
6 filled it out in my house, and I'm here. I didn't ask for
7 any help from anybody, because I usually don't talk to
8 anybody. So, no...

9 Q You did not find it would have been important
10 for you to discuss these allegations, in view of the fact
11 that you are attempting to represent them in a class
12 action complaint?

13 A Yeah, I should have, but I didn't know somebody
14 that could help me out, so I did it alone. But we on this
15 paying unfairly, we're on the same boat. We're being,
16 we're being, for me we're being discriminated, because we
17 do a good job delivering the product. I know that there
18 are people higher in our position, but we are an important
19 role in the business, too, because we get the product to
20 the people. So, we can have benefits, superior benefits.

21 Q So, you are... Go ahead, finish. Finish what
22 you were saying.

23 A So, the employer can feel safe money wise.
24 That's about it. You can continue.

25 Q Now you mentioned the word "discriminated

1 against." Right?

2 A Uh-huh.

3 Q And I want to clarify. The fact is, Kevin, you
4 were paid \$7.25 an hour, and you were also paid \$1.00 per
5 delivery. Okay? So, you were being paid in excess, if
6 you were paid \$1.00 per delivery, you were receiving an
7 excess of minimum wage.

8 A Yeah, that's \$1.00 that does not compensate the
9 milage that we run.

10 Q Okay. We may have a difference. You may feel
11 that that was not sufficient. Alright?

12 MR. COLÓN:

13 Harold, you're getting into a legal issue whether or
14 not it's in excess of the minimum wage. That's precisely
15 the Complaint, and it's a legal issue. So, I mean, fight
16 with him, if you want, I would suggest you don't.

17 MR. VICENTE:

18 Thank you, Cisco, I'll take it under advisement and
19 I'll continue my interrogatory.

20 Q The fact is, that you were paid both, \$7.25 plus
21 \$1.00 per delivery. Okay?

22 A Uh-huh.

23 Q Do you... Have you been interviewed, or have
24 you discussed the facts that you allege in this Complaint
25 with anybody other than your lawyers?

1 A No.

2 Q No. Has anybody, any experts interviewed you
3 and asked you questions about the facts you're alleging in
4 this Complaint?

5 A No. Besides my attorney, nobody else.

6 Q Okay.

7 MR. VICENTE:

8 Give me, give me five minutes, Cisco. I want to see
9 what else I want to discuss with Kevin. I may be close to
10 being done.

11 MR. COLÓN:

12 Okay.

13 MR. VICENTE:

14 Alright?

15 OFF THE RECORD

16 MR. VICENTE:

17 Okay. I'm back.

18 MR. COLÓN:

19 I'm back, too.

20 MR. VICENTE:

21 Missing Kevin? Right?

22 MR. COLÓN:

23 Yeah, I'm sure he's... There he is. Okay.

24 MR. VICENTE:

25 Alright.

1 Q Kevin, can you hear me?

2 A Yeah.

3 Q Alright. I only have one or two more questions,
4 or maybe just one. When I asked you earlier if you
5 recalled starting, finishing your work with the prior
6 Mayagüez store operator, and your starting in February
7 with the new operator, whether you had signed an
8 employment contract, you said that you had received a
9 manual, but you do not recall having signed an employment
10 contract. Am I correct?

11 A Correct.

12 Q Okay. Let me show you this. Do you see that
13 employment contract there?

14 A Yeah.

15 Q Is that your signature there where it says
16 'firma del empleado'?

17 A Oh, yeah.

18 Q Okay. So, it says Employment Contract as driver
19 for deliveries for FOT Investments. Do you see that on
20 the top?

21 A Yeah, but that paper was not given to me on the
22 same day that the rules that they gave, no.

23 Q Okay.

24 A They sent it on, I think, no, no, that was not
25 e-mail. I know they requested a receipt in the mail.

1 Q Okay. But now that you see this employment
2 contract, you do recall having signed this?

3 A Yeah, yeah, yeah.

4 Q Okay. So, you signed that employment contract
5 and what you were discussing before is that in addition to
6 this, even though it wasn't the same day, you did receive,
7 and recall having received the policies, and manuals, and
8 procedures of the company.

9 A Correct.

10 Q Okay. And you received that every time there
11 were any changes. Right? Because if at some point in
12 time the manuals changed, you would get a new manual, and
13 you would have to provide an acceptance of delivery of
14 those policies. Do you recall that happening?

15 A I had a user manual, but they didn't change it
16 in three years.

17 Q Okay.

18 A So, I was with the old manual, I think.

19 Q Alright. So, let me show you another document
20 and we're almost done here. Okay. Now I am showing you
21 what is the receipt of the manual of policies and
22 procedures of Domino's. Do you see that?

23 A Yeah.

24 Q That's also signed the 15th of February of 2017.
25 Is that right?

1 A Yeah.

2 Q Okay. So, you received that one when you began
3 working for FOT?

4 A For FOT, yeah.

5 Q Yes. And then, you said your recollection was
6 that those manuals never changed, but I'm going to show
7 you another document now to make sure that, to see if you
8 recognize this one. This is the same receipt of manual of
9 procedures, but now they were changed sometime in 2019.
10 Do you see that edition of 2019?

11 A Okay. That was, that was sent to me in the
12 Yauco store.

13 Q Alright. But it says here 20 May 2019. So,
14 sometime in May 20, 2019, you received a revised or an
15 edition, a new edition of the policies and procedures.

16 A I only received that receipt, but I never
17 received an updated manual. I always had the old one.
18 They only made me like sign that, but I didn't have a new
19 manual.

20 Q Did you read what it says here, what's stated
21 here before signing it, Kevin?

22 A Yeah.

23 Q Okay. Isn't it a fact here that on the first
24 sentence, on number one, it says that you certify that you
25 received the manual of policies and procedures? Isn't

1 that what it says? And you signed this.

2 A Yeah, and they told me that they would send the
3 user guide by e-mail and they never sent it.

4 Q Okay. So, you're testifying... Go ahead,
5 finish, finish.

6 A No, no, tell me.

7 Q Okay. So, your testimony is that even though
8 you signed and certified that you received it, your
9 testimony is that you did not receive it.

10 A No.

11 Q Kevin, what is your e-mail address, or what was
12 your e-mail address at that time?

13 A Rosselló.matias@gmail.com

14 Q Okay.

15 A Double "s", just in case I didn't say it.

16 Q Alright. Alright, Kevin, thank you very much
17 for having attended the deposition. I have no further
18 questions at this time.

19 A Okay.

20 MR. COLÓN:

21 I've got a few, but we should be able to go through
22 them very quickly.

23 CROSS EXAMINATION

24 BY MR. COLÓN:

25 For the record, attorney Francisco Colón.

1 Q Kevin, you mentioned that there was a, you
2 mentioned this process, or these things that you did
3 regarding answering an ad on Facebook, speaking to someone
4 over the phone, you know, in regards to your response to
5 that advertisement, etcetera. My question to you is, if
6 those phone calls related to that advertisement, if any of
7 those phone calls were with me?

8 A No.

9 Q Okay. My other question to you is, when you
10 were paid \$1.00 per delivery in Mayagüez, did you decide
11 that?

12 A No.

13 Q Were you given a choice as to whether to be
14 compensated for the use of your car in any other way?

15 A No.

16 Q Okay. Could you work as a Domino's Pizza driver
17 if you did not have your own car?

18 A No.

19 Q So, would Domino's have a car available at the
20 store for drivers who did not have their own car to use?

21 A Repeat that question. Sorry.

22 Q Did Domino's Pizza have a company car at the
23 store that a driver could use if he did not have his own
24 car?

25 A No. I believe that's in the United States only.

1 Q Okay.

2 MR. COLÓN:

3 I have no further questions, Harold.

4 MR. VICENTE:

5 Okay. Very few.

6 REDIRECT EXAMINATION

7 BY MR. VICENTE:

8 Q Kevin, when you signed your employment contract,
9 you were aware of what the terms and conditions of the
10 employment were. You were going to be paid \$7.25 per
11 hour, plus \$1.00 per delivery. Is that right?

12 A Correct.

13 Q And you accepted that job?

14 A Correct. But on the...

15 Q Did you accept that job? Yes or no?

16 A Let me, let me, let me say something first.
17 When I started working, they did not tell me that it was
18 going to be \$1.00 per trip. They only told me like \$7.25
19 and that you'll get a compensation for the delivery. When
20 I started working, I saw that it was \$1.00. If I signed
21 a document that said it, maybe I didn't read it, I didn't
22 read that part. But I accept that, yes.

23 Q You accepted it. Even though now you say that
24 you were not told, eventually you did find out, and you
25 decided to stay working under those conditions.

1 A Yeah, I decided to stay, because I needed work
2 and money.

3 Q Okay.

4 A I didn't have a lot of options in my life right
5 now.

6 Q And to the last question Mr. Colón Ramírez posed
7 to you whether Domino's had a company car for you to use,
8 you said you believed that that was the case in the United
9 States?

10 A No, I know that that is a fact in the United
11 States, because I saw the car. They have an electronic
12 car an on man car and there's a private company car.

13 Q And where was this that you saw this?

14 A Well, the on man car on the internet. The cars
15 in the company, in Orlando.

16 Q I'm trying to figure out the on man car. What
17 is that?

18 A I don't know how it's called, but it's a car
19 that does not use a driver, it's only mechanics, it's like
20 an RC toy.

21 Q Like a drone?

22 A Yeah.

23 Q And where did you see this?

24 A On the internet. But the car that they had from
25 the company, that they're driven by actual people, in

1 Orlando, at Domino's Pizza in Orlando. OBT, Orange
2 Blossom Trail, Río Grande Avenue.

3 Q Okay. And did you work for them at some point
4 in time?

5 A No, I was waiting for my three years permit for
6 the license to drive as a delivery.

7 Q And how did you find out about that those cars
8 were company owned?

9 A Because they are labeled all over around it.
10 They are labeled. They have labels. Not like my car, my
11 car only uses like a 'biombo', but that car was labeled
12 entirely and it says maybe on the left side or right side,
13 I don't remember right now, it says that it's owned by the
14 company.

15 Q Did you see a registration on the name of the
16 company car? Did you see the registration?

17 A Of that vehicle? No.

18 Q Okay. So, you're assuming by the fact that this
19 car was labeled all around, you're assuming that that car
20 was company owned.

21 A I'm not assuming, I'm telling you, because I saw
22 the sticker that said that this vehicle is registered or
23 provided by something like that that it says, always on
24 the bumpers that the cars like AT&T has, and they have it:
25 "If this vehicle is driven negligently, please call", and

1 that's what I saw.

2 Q Okay.

3 MR. VICENTE:

4 Anything else? I have nothing further, Cisco.

5 MR. COLÓN:

6 Neither do I.

7 MR. VICENTE:

8 Alright. Thank you, Kevin.

9 DEPONENT:

10 Thank you.

11 MR. VICENTE:

12 Have a safe drive back to Mayagüez.

13 DEPONENT:

14 Thank you.

15 OFF THE RECORD

16 MR. VICENTE:

17 We're back on the record to clarify that the last
18 exhibit that I showed Kevin were part of his employee
19 file, and that would be marked as Exhibit 4, and I will
20 send it to Crespo & Rodríguez. Okay?

21 MR. COLÓN:

22 Harold, I assume that's the employee file that you
23 produced in this case. Correct?

24 MR. VICENTE:

25 The same one that you have.

1 MR. COLÓN:

2 Perfect. Alright. Thank you.

3 MR. VICENTE:

4 Okay. Bye.

5 MR. COLÓN:

6 Bye.

7 Whereupon, the deposition in the above-named matter
8 was concluded.

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1 DATE : MARCH 17, 2021
2 TIME : 2:00 P.M.
3 CIVIL NO. : 3:19-CV-01307 (ADC)
4 DEPONENT : MR. KEVIN O. MATÍAS ROSELLÓ

5

6 CERTIFICATE OF COURT REPORTER

7

8 I, JORGE CUADRADO LÓPEZ Court Reporter, and member of
9 Crespo & Rodríguez, Inc.:

10 DO HEREBY CERTIFY: That the foregoing transcript is
11 a full, true and correct record of the testimony given
12 which was recorded by me, and thereafter reduced to the
13 typewritten form.

14 I FURTHER CERTIFY: That I am not in any way involved
15 or interested in the outcome of said action.

16 WITNESSETH my hand this 05 day of April, 2021, in San
17 Juan, Puerto Rico.

18

19

20

21

22 JORGE CUADRADO LÓPEZ

23 COURT REPORTER

24

25

1 CIVIL NO.: 3:19-CV-01307 DATE: MARCH 17, 2021

2 CERTIFICATION

3 I have read the transcription of my deposition taken
4 on March 17, 2021 in the referenced case.

5 _____ I do not have any corrections.

6 _____ I have the following corrections:

7

8 KEVIN O. MATÍAS ROSELLÓ

9 DEPONENT

10 LIST OF SUGGESTED CORRECTIONS:

11 PAGE	LINE	TEXT OF	SUGGESTED
12		TRANSCRIPT	CORRECTIONS

13

14

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23 NOTE: The only valid corrections are those that the
24 deponent understands that are in the transcription, not
25 changes as to what was said.

1 DATE : March 17, 2021
2 TIME : 2:00 P.M
3 CIVIL NO. : 3:19-CV-01307
4 DEPONENT : MR. KEVIN O. MATÍAS ROSELLÓ

5

6 CERTIFICATE OF NOTARY PUBLIC

7

8 I, REYNALDO QUINTANA LATORRE, ESQ., attorney at law
9 and notary public, duly commissioned and qualified in the
10 Commonwealth of Puerto Rico;

11 DO HEREBY CERTIFY: That by stipulation of the
12 parties I acted as notary public; that the foregoing
13 deposition was taken on the date and time heretofore
14 mentioned; and that the Reporter, the interpreter and the
15 Deponent were sworn by me before the commencement of the
16 taking of the Deponent's testimony.

17 IN WITNESS WHEREOF: I sign this document and affix
18 my notarial seal in San Juan, Puerto Rico on the _____
19 day of _____, 2021.

20

21

22

23 REYNALDO QUINTANA LATORRE, ESQ.

24 NOTARY PUBLIC

25